

RECEIVED  
CENTRAL FAX CENTER

001/006

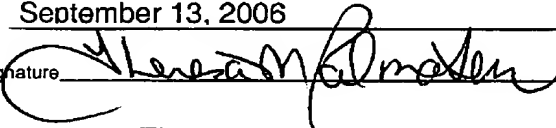
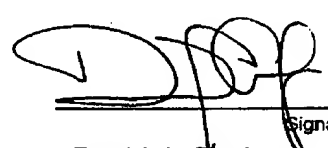
SEP 13 2006

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
<b>CERTIFICATE OF FACSIMILE</b> I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300. on <u>September 13, 2006</u> Signature <u></u> Typed or printed name <u>Theresa M. Palmateer</u>		Application Number	Filed
		09/725,437	11/29/2000
		First Named Inventor	
		Farooq Ullah Khan	
Art Unit		Examiner	
2616		Qureshi, Afsar M.	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
I am the			
<input type="checkbox"/> applicant/inventor.		Signature	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)		David J. Gaskey	
<input checked="" type="checkbox"/> attorney or agent of record.		248-988-8360	
Registration number <u>37,139</u>		Telephone number	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34.		September 13, 2006	
Registration number if acting under 37 CFR 1.34 _____		Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			

<input type="checkbox"/> *Total of _____ forms are submitted.
---

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED  
CENTRAL FAX CENTER

SEP 13 2006

67108-052  
Khan 7-54

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Farooq Ullah Khan  
Serial No.: 09/725,437  
Filed: 11/29/2000  
Examiner: Qureshi, Afsar M.  
Group Art Unit: 2616  
Title: HYBRID ARQ WITH PARALLEL PACKET TRANSMISSION

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner For Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant respectfully requests review of this application prior to filing an Appeal Brief.

This request accompanies Applicant's Notice of Appeal.

There is no *prima facie* case of obviousness against any of Applicant's claims. The rejection under 35 U.S.C. §103 is based upon the proposed combination of *Subbiah, et al.* and *Wasilewski, et al.*<sup>1</sup>

There is no *prima facie* case of obviousness because there is no motivation for making the proposed combination of *Subbiah, et al.* and *Wasilewski, et al.* The Examiner proposes to take the PID of paragraphs 175, 176 and 177 of the *Wasilewski, et al.* reference and add that to the teachings of the *Subbiah, et al.* reference. That combination provides no benefit and has no use in the

---

<sup>1</sup> The final Office Action discusses the proposed combination of the *Subbiah, et al.* and *Kallel* references, however, Applicant believes that to be a mistake as the combination of *Subbiah, et al.* and *Wasilewski, et al.* was applied in the non-final Office Action that followed Applicant's previous request for Pre-Appeal Brief Review. Assuming the Examiner is maintaining the rejection based upon the proposed combination of *Subbiah, et al.* and *Wasilewski, et al.*, Applicant's remarks focus on that combination first. Just in case the combination of *Subbiah, et al.* and *Kallel* requires further consideration, Applicant also addresses why that proposed combination does not establish a *prima facie* case of obviousness.

67108-052  
Khan 7-54

*Subbiah, et al.* arrangement. Without any benefit, there is no motivation for making the combination and no *prima facie* case of obviousness.

The *Subbiah, et al.* reference is concerned with demultiplexing packets received at a node and then remultiplexing them based upon transmission to a common second node. *Subbiah, et al.* only teach using a sequence number to identify where in a sequence a particular mini-packet should fit for the remultiplexing accomplished in the *Subbiah, et al.* reference. The sequence number field 214 in the *Subbiah, et al.* reference indicates a sequence of transmissions from a single source that has nothing to do with indicating a retransmission of any packet. For example, there is no discussion of altering or setting the sequence number responsive to an indication that a mini-packet has not been received by the intended recipient. Instead, *Subbiah, et al.* only teach using the sequence number to identify where in a sequence a particular mini-packet should fit. There is no discussion in *Subbiah, et al.* regarding retransmitting any packets (lost or not).

The Examiner proposes to add the PID of *Wasilewski, et al.* to the arrangement of *Subbiah, et al.* The PID of *Wasilewski, et al.* is for indicating whether a number of packets belong to one sub-category or another (e.g., video 1 or audio 1). Such a PID does not have any usefulness in the mini-packet switching for IP networks described in the *Subbiah, et al.* reference. The PID of *Wasilewski, et al.* is used for cable television systems to indicate whether a particular packet contains video or audio data. That has nothing to do with mini-packet switching (i.e., demultiplexing and then remultiplexing mini-packets) used in the *Subbiah, et al.* reference. In other words, the PID of the *Wasilewski, et al.* reference has no usefulness in the *Subbiah, et al.* arrangement. Without any usefulness, there is no benefit to the combination. Without any benefit

67108-052  
Khan 7-54

there is no motivation for making the combination. Without any motivation there is no *prima facie* case of obviousness.

Additionally, Applicant notes that the *Wasilewski, et al* reference is concerned with cable television systems. These are not the same as wireless communication systems such as that used in *Subbiah, et al.* Applicant respectfully submits that the *Wasilewski, et al.* reference is not analogous art and is not combinable with the *Subbiah, et al.* reference for that additional reason.

The Examiner rejected some of the claims based upon the proposed combination of *Subbiah, et al.*, *Wasilewski, et al.* and the *Rathonyi, et al.* reference. The base combination of *Subbiah, et al.* and *Wasilewski, et al.* cannot be made for the reasons already given. Proposing to add the teachings of the *Rathonyi, et al.* reference does nothing to remedy the defect in that proposed base combination. There is no *prima facie* case of obviousness against any of Applicant's claims.

As noted above, the final Office Action does mention the proposed combination of the *Subbiah, et al.* and *Kallel* references. That proposed combination was already considered during Applicant's previous request for Pre-Appeal Brief Review, which resulted in a determination that prosecution would be reopened. The proposed combination of the *Subbiah, et al.* and *Kallel* references cannot be made. The *Kallel* reference is concerned with an incremental redundancy "analyzed in conduction with sequential decoding using a timeout condition" (page 1588). The symbol metric of *Kallel* is a complex formula of probabilities of receiving a group of symbols to a group of repeated bits. The repetition symbol metric on page 1590 of *Kallel* and the approach of *Kallel* provide no benefit to the *Subbiah, et al.* arrangement, which is for demultiplexing and remultiplexing for transmission from one node to a common second node. Because the symbol


67108-052  
Khan 7-54

metric of *Kallel, et al.* has no usefulness in *Subbiah's* arrangement, there is no benefit to the proposed combination. Without any benefit there is no motivation for making the combination. Without any motivation there is no *prima facie* case of obviousness.

None of the combinations proposed by the Examiner can be made. None of them establish a *prima facie* case of obviousness. Applicant respectfully submits that this case is in condition for allowance.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By:   
David J. Gaskey  
Registration No. 87,139  
400 W. Maple Rd., Ste. 350  
Birmingham, MI 48009  
(248) 988-8360

Dated: September 13, 2006

**CERTIFICATE OF FACSIMILE**

I hereby certify that this Pre-Appeal Brief Request for Review relative to Application Serial No. 09/725,437 is being facsimile transmitted to the Patent and Trademark Office (Fax No. 1-571-273-8300) on September 13, 2006.

  
Theresa M. Palmateer

N:\Clients\LUCENT TECHNOLOGIES\IP00052\PATENT\Pre-Appeal Brief Request for Review 9-13-06.DOC